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**Comments Addressing *MM Docket No. 87-268* - Advanced  
Television Systems and Their Impact Upon the Existing  
Television Broadcast Service**

November 15, 1995

By:

The Small Business Survival Committee, Washington, D.C.

The Small Business Survival Committee (SBSC) -- a 40,000 member nonpartisan, nonprofit advocacy organization -- fights against the growing burden of taxes and regulations on America's small businesses and entrepreneurs. SBSC supports free markets over government industrial policy. SBSC also spearheads the Campaign for Broadcast Competition, a coalition of advocacy organizations opposing the proposed giveaway of the spectrum to the nation's broadcasters.

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The Small Business Survival Committee (SBSC) is pleased to submit comments addressing *MM Docket No. 87-268 - Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service*. In the near future, the FCC will determine whether to proceed with current plans to give the television broadcasters free, valuable spectrum with the hope that the broadcasters will make High Definition Television (HDTV) a market reality.

SBSC is unequivocally opposed to the current policy, and we believe that the market will be a better determinant of whether HDTV becomes a reality (rather than the government's determination). SBSC believes that the proposed giveaway of the nation's airwaves to the broadcasting industry is an expensive residue of failed industrial policy. SBSC does, however, have faith that the FCC can reverse course by auctioning off the spectrum, rather than dictating what technologies would be best for the market.

When the Federal Communications Commission seven years ago pursued a plan to make High Definition Television (HDTV) the broadcasting standard for the United States, the FCC proposed giving the broadcasters new spectrum to allow them to move from analog television to HDTV. Once HDTV was in place, the theory was, the analog spectrum would be returned to the government.

The market and technology, however, have outsmarted and surpassed the government's chosen industrial "winner." In this case, digital technology far outstripped the ability of the government to adequately project future market needs and technological advancements, rendering all of the plans for HDTV, for all intensive purposes, obsolete.

With new digital technology each new digital TV channel can be used for one HDTV signal. Or, it can be split into 6 very high quality digital TV signals. (In other words, the spectrum gift combined with new digital technology now gives the major television networks six more channels of programming each.)

The free new spectrum need not be used just for television; it will unlock an unlimited number of new lucrative businesses for the broadcasters. The spectrum could be used to provide 72 digital radio channels, computer data delivery, wireless telephone service, pay TV -- or any combination of each of them -- as well as other profitable uses.

In the face of the new technology, the broadcasters profess a continued commitment to HDTV and the use of the new Advanced Television (ATV) channels for HDTV.<sup>1</sup> But this year the broadcasters have insisted on receiving the "flexibility" to use the spectrum as they see fit. Broadcasters are actively exploring the opportunities for potential new services -- as they should be. The questions facing policy makers now are: why are the broadcasters the chosen few for the privilege of "spectrum flexibility," and why should they get it for free? Is it in the best interest of the free market, as well as taxpayers, to give the spectrum away?

As the broadcasters have freely admitted, HDTV is a technological and economic

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<sup>1</sup>See MSTV Board Resolution, MSTV Journal, May, 1995, p. 2.

dinosaur. They don't want to be shackled to it, nor should they. There is no market for it, and other digital technologies would use the airwaves far more efficiently.

The broadcasters correctly realize that new digital technology will transform communications as we know it. And what they want is the valuable distribution pipeline -- the spectrum -- with no strings attached. It is our belief that the broadcasters clearly do not want to use the spectrum for the purpose for which it was originally intended -- providing HDTV. They may choose to provide digital television. But, no one really knows, since the technology is changing almost daily and the possibilities are endless.

While the broadcasters don't want to be held to the HDTV implementation (though they say they are actively pursuing it), they quite naturally still want the additional spectrum -- free of charge. Why? Because it is valuable. If this spectrum were auctioned as the PCS spectrum was last year, it could raise between \$10 billion and \$100 billion.

That is a lot of money. These market value estimates are not just random numbers picked out of a hat. The FCC conservatively estimates that the spectrum is worth between \$11 billion and \$70 billion.<sup>2</sup>

In order to attain some idea of the value of spectrum, one need look no further than recent auctions of television stations -- and in this case public television. ITT and Dow Jones paid a whopping \$207 million this past summer to buy WNYC, New York City's local public UHF station. The station had few hard assets, no programming appeal -- its new owners are going to switch to commercial programming, with a limited viewership . . . In short, the 26 companies who bid for WNYC wanted to pay big bucks for one thing, its spectrum.

Based solely on the \$207 million paid for WNYC, the FCC valued the broadcast spectrum potentially at \$37 billion.

"Even" at \$37 billion, the figure would provide a tremendous boost to Congress' efforts to balance the federal budget. And, the FCC says this a conservative estimate. Some experts estimate that the market value of the digitized spectrum in the not too distant future will reach nearly a half-trillion dollars.

SBSC opposes the give-away of the spectrum to the broadcasters. We do not believe they deserve this special gift of largesse, which hurts competition and destroys innovation. The proposed giveaway not only flies in the face of efforts to balance the budget but also bucks a profound message that voters sent to Washington last November -- no more coddling of special interests at the expense of other Americans.

The giveaway to the broadcasters can't be a reward for the great job they've done serving the public good -- as they claim, and as required by their current licenses. As everyone who has a

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<sup>2</sup>See May 5, 1995 and September 6, 1995 letter from FCC Office of Plans and Policy to Senator Joseph Lieberman.

TV knows, and as numerous Congressional hearings this year have shown, the broadcasters have done a good job at packing the airwaves with programming that the majority of American households find troubling and offensive.

News coverage is no better. The president of NBC's News Division, Andrew Lack, admitted that "too often we now choose, without a moment's hesitation, to report the story that makes you feel repulsion over the story that makes you think -- which in television means usually boring." Mr. Lack went on to ask his peers: "And why do we keep pushing it? Are we all just whores in search of another share point or a better November book?"<sup>3</sup>

SBSC believes the market can best answer this question.

Of course, competition in the form of cable, direct broadcast satellite, on-line computer services and more has given consumers added viewing choices. Broadcasters have not gone the wayside (as they claim they will) because of current competition. Their bottom-lines and profits continue to increase.

In the past year alone, the networks combined revenues were \$21.42 billion. Their combined profits were \$2.82 billion. Clearly, broadcasting is more profitable than ever.

Robert Wright, [president] of NBC, recently told the National Press Club that "right now broadcast television -- and NBC -- are both having banner years. And even more important, the fundamentals of the industry are looking strong as well." Apparently advertisement-supported TV is doing fine, and will continue to profit handsomely -- without a big government handout.

The FCC agrees with Mr. Wright: over-the-air broadcasting is and will continue to thrive.<sup>4</sup> In a September letter, the FCC pointed to the ABC, CBS and WNYC deals, and concluded that: "free over-the-air television is such a lucrative business, there is no reason to believe that either analog or digital broadcasters will cease providing this service."

The broadcasters plead that to pay for spectrum will kill "free" TV. But the recent purchase prices and bids for the networks prove that investment money is available for those who want to have the privilege of providing "free" TV. Walt Disney, which paid \$19.3 billion for ABC/Cap Cities obviously sees investment pay-offs. Westinghouse which offered \$5.4 billion for CBS appears to view the business as profitable as well.

Finally, advertising-supported broadcasting will only go away if its viewership goes away. If the audience is there, advertisers will continue to subsidize what the broadcasters modestly call "free" TV by paying for the right to reach viewers.

The broadcasters also claim that "they" shouldn't be singled out for auctions, and that the

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<sup>3</sup>*Communications Daily*, September 8, 1995, pp. 3-4.

<sup>4</sup>See FCC Letter, September 6, 1995.

FCC should auction the government spectrum first. But government spectrum and broadcast spectrum are not comparable in terms of worth.

According to Dale Hatfield, a noted spectrum expert and Reagan Administration technology official, this is the cleanest spectrum available. It is beachfront property. More importantly, the broadcasters are not the only users who have been asked to pay for the public airwaves. As the FCC well knows, Congress in 1993 mandated that the FCC auction all licenses for new spectrum. For example, the FCC already has sold only a part of the PCS spectrum for \$8 billion. That's \$8 billion that went to the US Treasury. If it is good enough for PCS, it is good enough for all the new businesses the broadcasters hope to pursue.

The broadcasters have two other arguments. First, they argue that such a large auction of spectrum will depress the market value of spectrum and thus won't raise much money. Then, they argue that broadcasters couldn't possibly afford the spectrum, and thus couldn't provide digital television. SBSC's question is, which one is it?

Either way, the public wins. SBSC believes that there will be buyers for the spectrum. We know the FCC also agrees. With all the possible benefits of digital broadcasting, the FCC expects that numerous companies, including the broadcasters, will compete for and likely win many digital licenses.<sup>5</sup> In other words, somewhere between here and the auction block, the broadcasters will figure out ways to participate in the bidding process. This, of course, begs the question: is the government and the U.S. taxpayer responsible for guaranteeing the long-term success of any other broadcasters?

One other important issue is how long the broadcasters will retain rights to the spectrum. Under the current broadcaster proposal, the broadcasters will retain their analog signal for anywhere between 10 and 15 years, when digital TV becomes the standard. What happens after 15 years and digital TV has only penetrated 80 percent (or more) of the market? In short, the broadcasters will continue to own their analog licenses for the foreseeable future and beyond, even while they get to exploit the myriad new digital technologies.

Technological change is already upon us: new digital technologies will soon allow the new spectrum to be used to transmit multiple digital TV signals; additional subscription services -- like HBO, newspapers, local news and data, computer/video games . . . the options are nearly endless. The problem is that the broadcasters now ask that Congress give them a free ride.

Clearly, the broadcasters are financially capable and market savvy enough to identify and exploit new markets. They don't need the government's help. They already control a majority of the TV market. We don't need to give them a head start in the race to win the digital marketplace. The broadcast spectrum should not be government charity. The auctioning of the broadcast spectrum will reduce our national debt and preserve all of America's future, rather than protect special interest handouts for the broadcasting industry.

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<sup>5</sup>See FCC letter, September 6, 1995, p. 5.

The FCC has an opportunity to encourage -- rather than protect and stifle -- the development of an innovative, competitive, profitable broadcasting future. There is no better way to demonstrate proper stewardship of the nation's airwaves than by allowing the market to determine its best usage. SBSC strongly encourages the FCC to break with the past and auction off the broadcast spectrum to let the market decide whether or not HDTV will become a market reality.